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Held at Headquarters, New York,
on Friday, 20 March 1981, at 10.30 a.m.

Chairman: Mr. ENGO (United Republic of Cameroon)

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Preparatory Commission (continued)

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The meeting was called to order at 10.55 a.m.

PREPARATORY COMMISSION (continued) (A/CONF.62/L.55 and Corr.1)

Mr. WUENSCHE (German Democratic Republic) said that his delegation agreed that a Preparatory Commission should be established by means of a resolution adopted by the Conference at the time of the signing of the Final Act; it could, in principle, support the draft resolution contained in document A/CONF.62/L.55, annex II. The provisions of paragraph 2 on the composition of the Commission were acceptable. It should be stated clearly in paragraph 3 that the Commission should, in principle, function on the basis of the rules of procedures of the Conference, including the Gentleman's Agreement on taking decisions. It should be able to establish subsidiary committees, but that matter required more detailed consideration.

The function of the Preparatory Commission should be to ensure that the organs of the Authority could begin work immediately after the entry into force of the Convention. His delegation could also agree to the provision for the Commission to arrange for convening the Law of the Sea Tribunal. Paragraph 4, which listed other tasks of the Commission, was acceptable. His delegation reserved the right to comment at a later stage on whether it should, apart from the functions traditionally assigned to preparatory commissions, also deal with other specific matters, such as those mentioned in paragraphs 5 and 8.

In any event, the arrangements for the Preparatory Commission should be such as to ensure maximum efficiency at minimum cost. Full advantage should be taken of the experience acquired by the secretariat of the Conference, paragraph 10 of the draft resolution should specifically provide for the Commission to meet at one of the United Nations headquarters cities so as to make full use of available facilities. There was a need to harmonize paragraphs 10 and 13.

(Mr. Wuensche, German Democratic Republic)

His delegation shared the view that negotiations on unresolved matters should be carried out in an appropriate negotiating forum, which should produce a draft resolution on the Preparatory Commission acceptable to all parties.

Mr. PINTO (Sri Lanka) said that the signing of a convention at Caracas in 1981 remained the goal of the overwhelming majority of delegations. His delegation endorsed the view of the Group of 77 that the Preparatory Commission should be established by a resolution of the Conference, although the idea of setting it up by means of transitional provisions incorporated in the Convention itself would also be acceptable. Membership of the Preparatory Commission should be limited to States which had at least signed the Convention, and it should be established as soon as the Convention had been signed by a specified number of States. Such a requirement would be helpful, having regard to the obligations of the Commission under paragraph 12 of the draft resolution contained in document A/CONF.62/L.55, annex II. It was difficult, however, to reconcile paragraphs 1, 2 and 14 of the draft resolution with paragraph 10; his delegation was uncertain whether the intention was that the Commission would actually be in existence before the requirements laid down in paragraph 10 were met.

The establishment of a Preparatory Commission was essential to the orderly establishment of an organization so complex as the Authority. Its functions should go beyond those traditionally assigned to preparatory commissions, and his delegation agreed with the basic approach reflected in the draft resolution, which envisaged a wide range of preparatory activities. It was difficult to understand why no reference was made to the establishment of the Enterprise in the draft resolution. Making the arrangements for the establishment of the Enterprise should be included among the functions of the Commission and might well prove to be one of its most complex tasks.

His delegation agreed that the Commission should prepare the draft rules, regulations and procedures contemplated by the Convention, including those associated with article 16 of annex III of the Convention. It was his delegation's understanding that it was for that purpose that the Commission would be empowered under paragraph 6 to establish subsidiary committees. In relation to article 16

(Mr. Pinto, Sri Lanka)

of annex III, the establishment of a kind of legal and technical commission might be envisaged. As the draft resolution did not envisage the establishment of any executive organ, it seemed that the Commission was intended to carry out its functions through committees of the whole.

The preparation by the Commission of draft operational rules and regulations, which his delegation supported, was completely separate from the issue of whether or not those rules should be given interim application as, for example, under any scheme for the authorization of pioneer mining ventures. On that issue, his delegation awaited the initiatives of those primarily concerned with the need to strengthen the confidence of entities which might wish to invest early in sea-bed mining under the Convention. As the Conference was to complete its work programme within the coming six months, the earlier specific proposals on the matter were placed before the Conference the better.

Mr. RUDKOWSKI (Poland) said that annex II of document A/CONF.62/L.55 provided a sound basis for the Committee's consideration of the Preparatory Commission. The resolution on transitional measures to be adopted by the Conference should not create any artificial obstacles to the effective functioning of the Preparatory Commission. Accordingly, only essential matters should be dealt with in it. There were many precedents in the work of similar preparatory organs which could be drawn on.

His delegation favoured making signature of the Final Act of the Conference the criterion for membership of the Commission, since that would ensure the broadest possible participation. If it had been deemed desirable for the countries to participate in the preparation of the Convention, there were even stronger grounds for their participation in the work of the Preparatory Commission.

The Commission should proceed on the basis of consensus, and its role should be limited to making recommendations. Given the temporary and auxiliary character of the Commission, it should not have powers that might in any way prejudge the decisions of the Authority.

The draft resclution contained in document A/CONF.62/L.55, annex II, contained very few provisions which required further clarification or amendment. His delegation could **therefore** support its adoption with minor drafting changes.

Mr. KUMAGAI (Japan) said that the late President's proposals in document A/CONF.62/L.55 regarding the Preparatory Commission provided a good basis for discussion. The draft resolution contained in that document could be elaborated to take account of a number of specific ideas. That could make the proposed arrangements acceptable to all delegations.

The Preparatory Commission should be established by means of a resolution of the Conference; that would be the best way to ensure an early start to its activities. For the same reason, membership in the Commission might be made open to signatories of either the Final Act or the Convention. The structure of the Commission should be similar to that envisaged for the Authority in the draft convention. Its decisions should be taken, in principle, on the basis of consensus. The rules, regulations and procedures drafted by the Commission should apply provisionally, pending their formal adoption by the Authority, as stipulated in article 308, paragraph 4, of the draft Convention.

As to the functions of the Commission, his delegation believed that its decisions should not have binding force and that it should not have power to impose financial burdens on participating States. Its functions should be limited to those normally essential to the preparations for a new international organization. A possible complication which might arise if the Commission's decisions had binding force would be that the Conference resolution setting up the Commission might have to be approved by national legislatures, and that could mean considerable delay in the establishment of the Commission itself.

The question of the Preparatory Commission was closely related to the question of preparatory investment protection, and the Conference would inevitably have to deal with that problem in due course.

Mr. OUDOVENKO (Ukrainian Soviet Socialist Republic) said that the draft resolution contained in annex II of document A/CONF.62/L.55 provided a sound basis for the Committee's consideration of the Preparatory Commission. At the ninth session the majority of delegations had supported the establishment of such a commission and a measure of agreement had been reached concerning its goals, tasks and functions.

(Mr. Oudovenko, Ukrainian SSR)

His delegation was in favour of establishing the Commission by means of a resolution of the Conference; a precedent for that arrangement was the establishment of the United Nations itself. His delegation also agreed with the position of the Group of 77 that the functions of the Commission must be in strict accordance with the provisions of the Convention and that its powers should be confined to making recommendations.

The Commission should deal primarily with the preparation of basic documents required for the first sessions of the Assembly and the Council. Its work should not duplicate or replace that of the Authority. Accordingly, his delegation found the provisions of paragraphs 1, 4 and 5 of the draft resolution to be wholly justified. The additional function of convening the Law of the Sea Tribunal should not be taken as grounds for broadening the competence of the Commission, since the existing provisions of the Tribunal's Statute already dealt in detail with the actual process of setting it up and selecting its members.

Paragraph 2 of the draft resolution was also acceptable. Membership in the Commission should be based on the clearly expressed desire of the State concerned to assume the rights and obligations provided for in the Convention. Otherwise, it would be difficult for the Commission to perform its primary task, which was the early establishment of the Authority and ensuring the broadest possible participation in the Convention.

The draft resolution did not, however, deal with one of the most important procedural matters relating to the Commission's work. Experience had shown the principle of consensus to be indispensable, and it should be stipulated in paragraph 3 that the Commission should take its decisions by consensus. That would ensure that the recommendations made by the Commission would constitute the basis for the decisions of the Authority with regard to its structure and principles and the procedures for exploring and exploiting the resources of the sea-bed.

His delegation had no objection to the discussion of outstanding issues or individual provisions of the draft resolution in meetings of informal groups with a limited membership such as the Working Group of 21.

Mr. UL-HAQUE (Pakistan) said that his delegation accepted the idea that the Preparatory Commission should be established by a resolution of the Conference. There seemed to be general agreement regarding the purposes and objectives of the Commission. He endorsed the position of the Group of 77 that only signatories of the Convention should be eligible for membership of the Commission and that signatories of the Final Act should be allowed to participate as observers without the right to take part in the decision-making process. That arrangement would provide an incentive for States to sign the Convention as early as possible.

The Preparatory Commission should also provide for the establishment and functioning of the Enterprise, and a specific reference to the Enterprise should be added in paragraph 1 of the draft resolution. Paragraph 6 was, rightly, vague about the question of subsidiary organs. His delegation did not believe that it was essential to have the Commission organized on the same lines as the Authority: there was no need, for example, for an executive organ. Paragraph 3, concerning the voting procedures of the Commission, was adequate to meet the concerns of those who believed that decisions should be taken by consensus.

His delegation held that the rules, regulations and procedures drafted by the Commission should be of a recommendatory nature only. Accordingly, the Conference would need to review the text of article 308 of the draft Convention.

Mr. CHARRY-SAMPER (Colombia) said that his delegation shared the views expressed at the preceding meeting on behalf of the Group of 77 by the representative of Peru. The report of the late President on the work of the informal plenary concerning the Preparatory Commission (A/CONF.62/L.55 and Corr.1) provided a good indication of the general agreement that was taking shape with regard to that issue. It was significant that there was virtually unanimous agreement regarding the establishment of the Preparatory Commission by means of a resolution of the Conference.

While there seemed to be no problem with regard to the Commission's performing the traditional functions of a preparatory commission, the Committee would have to consider in greater detail the specific functions arising out of the Convention. The experience of the United Nations demonstrated not only the usefulness of preparatory commissions but also the fact that a temporary body could reach agreements that would become permanent rules.

(Mr. Charry-Samper, Colombia)

As to the membership of the Commission, the general trend seemed to be to authorize States which had signed the Convention, and not only the Final Act, to participate in its work. The question of membership required careful thought, and members should bear in mind the situation that might arise if States signing the Convention participated in the work of the Commission but later failed to ratify the Convention. Through their participation in the Preparatory Commission such countries might secure specific concessions or advantages which would tie the hands of the Authority, of which they would thereafter not become members, and use them to maintain their lead in prospecting and mining of the sea-bed.

Such consideration had a direct bearing on the issue of the Commission's decision-making machinery. If the Commission was to adopt recommendations only, which seemed to be the generally accepted view, there was no need to insist on the requirement of consensus. Consensus as a method had its advantages and disadvantages, but there had to be some provision for taking necessary decisions. In the event of voting, rules of procedure similar to those of the Conference should be applied.

The provisions of the draft resolution with regard to the secretariat of the Preparatory Commission were sound. It was essential to avoid duplication, improvisation and unnecessary expenditure.

Mr. DE LA GUARDIA (Argentina) said that his delegation agreed fully with the statement made at the preceding meeting on behalf of the Group of 77 by the representative of Peru.

The fundamental concerns which should guide the Conference in its decision on the membership of the Preparatory Commission should be to ensure that the greatest possible number of States would sign the Convention and that the Convention should enter into force and the Authority be established at the earliest possible date.

The discussion at the preceding meeting showed that the overwhelming majority of States wanted the Convention. Accordingly, membership of the Preparatory Commission should be open to signatories of the Convention. The requirement that the Commission should take all decisions by consensus seemed to be at variance with the aim of making the Commission's work effective and expeditious. While the Commission's recommendations would be highly technical, and hence objective, which would facilitate their adoption by consensus, experience had shown that technical

(Mr. De La Guardia, Argentina)

considerations often had to yield to political expediency. While consensus might be the rule in principle, it should be complemented by some secondary procedure which would make it possible to take decisions in the event of failure to achieve consensus. Otherwise it might well become impossible for the Commission to act.

With regard to the suggestion made by the representative of the United Kingdom at the preceding meeting that the question of preliminary investment protection should be discussed in connexion with the functions of the Commission, it should be recalled that the Group of 77 had adopted a firm position on that matter in view of the repudiation by some circles of what had already been negotiated. It was not appropriate to deal with that matter in connexion with the Preparatory Commission.

A solution to the problem raised by a number of African States could take the form of a general agreement on specific commodities. If such an approach was adopted, the Commission's functions should include participation in the efforts to conclude such an agreement, which would, of course, be subject to approval by the Authority.

Miss MARTIN-SANÉ (France) said that the question of the Preparatory Commission had a bearing not only on the Final Clauses but also on the questions dealt with in Part XI of the draft Convention and the related annexes. Moreover, the debates on the Preparatory Commission would not be complete without a thorough discussion of the system of preliminary investment protection.

In her delegation's view, the Commission should be truly representative of all States which had participated in the Conference on the Law of the Sea. The membership should also be as stable as possible, since any changes might involve the continual consideration of questions that had already been dealt with, thus hindering the Commission's work and delaying the establishment of the Authority. Such situations could best be avoided by allowing all signatories of the Final Act to participate in the Commission even before they had decided to sign the Convention.

The Preparatory Commission should be established by a resolution adopted by the Conference when the Final Act was signed. In that resolution the Conference should submit to the General Assembly a draft resolution establishing the

(Miss Martin-Sané, France)

Commission, That procedure would enable the Commission to begin its work immediately after the signing of the Convention.

The decisions of the Commission should be made by consensus.

As for the rules, regulations and procedures drafted by the Preparatory Commission, her delegation felt that article 308, paragraph 4, of the draft Convention, as it stood, should apply, so as to enable those texts to be applied provisionally as soon as the Convention entered into force.

Mr. MÜLLER (Federal Republic of Germany) said that the main aim of the work of the Preparatory Commission was to enable the Authority to start its activities expeditiously and effectively and set in motion a system of exploitation and to establish the Law of the Sea Tribunal as quickly as possible after the entry into force of the Convention. One of the most important aspects of that task would be to provide for continued and uninterrupted development of sea-bed mining technology and thereby facilitate speedy development of the common heritage for the benefit of all mankind. The Preparatory Commission would accordingly have to deal with the protection of preparatory investments, without which the development of the common heritage might fail. It had been pointed out by several speakers that a timely build-up of the Enterprise was required for the same reasons. The draft resolution which had emerged from the discussion in the Informal Plenary provided a sound basis for future discussions.

In view of the importance of the work of the Preparatory Commission, it was vital to make provision for wide participation. He re-emphasized his delegation's view that signature of the Final Act of the Conference should be sufficient to qualify a State for membership of the Preparatory Commission. That would guarantee an early commencement of work and stability in the membership and activities of the Preparatory Commission. His delegation was eager to contribute to the work of the Commission from the start, which might not be possible if signature of the Convention - potentially a lengthy process under German law - was made a condition of membership.

Before making a decision on the voting procedure to be employed by the Preparatory Commission, the Committee should analyse the types of decision

(Mr. Müller, Federal Republic of Germany)

the Commission would have to make. The voting procedure might have to vary according to the subject-matter. She therefore believed that for the time being no change should be made to paragraph 3 of the draft resolution.

As envisaged in article 308 of the draft Convention, the rules, regulations and procedures drafted by the Commission should apply provisionally pending their formal adoption by the Authority. He could not agree to their having the status of mere recommendations; in his view, they should be considered an integral part of the whole exploitation régime to be agreed upon. Final judgement on that régime would inevitably depend on the substance and reliability of the Preparatory Commission's rules and regulations, and paragraph 9 of the draft resolution would have to reflect that approach.

In general, his delegation felt that the draft resolution on the Preparatory Commission constituted a sound basis for reaching agreement.

Mr. REVERDIN (Switzerland) said that the draft resolution (A/CONF.62/L.55, annex II) was an excellent basis for discussion on the establishment of the Preparatory Commission. He, like earlier speakers, believed that the question of the establishment of the Commission was closely linked to the protection of preliminary investments in the Area. Paragraph 3 of the draft resolution should be amplified by stating the decision-taking method to be employed in the Commission; his delegation's view was that decisions should be taken by consensus. He agreed that the Commission should make arrangements for convening the Law of the Sea Tribunal.

Paragraph 11 of the draft resolution was unclear as to the duration of the Preparatory Commission, but that was a point of detail which could be cleared up later. Similarly, the word "resolution" in paragraph 14 might give rise to some confusion. It should be understood as meaning an additional agreement among States participating in the Conference.

The Preparatory Commission should be able to establish subsidiary committees and organs, including an executive organ. In so far as such an executive organ was likely to be modelled on the Council of the Authority, it should be remembered that there was still some uncertainty about the composition of the Council. He welcomed the opportunity of discussing that and other controversial points related to Part XI.

Mr. BOS (Netherlands) said that he felt that the discussions at the ninth session of the Conference and the results of those discussions, as reflected in the draft resolution, provided a relevant and adequate basis for further discussions. A resolution of the Conference seemed an eminently acceptable instrument for laying down the rules of the Preparatory Commission. There was obviously a relationship between the Preparatory Commission and the protection of investments, but that was to be discussed at a later stage. He had some sympathy for the view expressed by the Group of 77 that the composition of the Preparatory Commission should not be an obstacle of the entry into force of the Convention. It would be useful to discuss a formula by which all countries could participate in the work of the Commission with a distinction being made, when it came to making decisions, between those which had signed the Convention and those which had signed only the Final Act.

The Preparatory Commission should play a role in preparing the necessary instruments on the functioning of the Enterprise, and the draft resolution should be adapted accordingly.

Mr. WOLF (Austria) said that there appeared to be unanimous agreement on the desirability of establishing the Preparatory Commission. However, the right of States to participate in the Commission was the subject of some dispute. The suggestion that membership in the Preparatory Commission should be limited to countries that had signed the Convention, while those which had signed only the Final Act were given only the status of observers, was motivated by the desire to give States an incentive to accelerate the process of ratifying the Convention. Well-meaning as it was, that idea could have another, undesirable effect: that of limiting membership of the Preparatory Commission. In his country, which was eager to contribute to a Convention which would lead to peaceful development of the oceans, the process of ratification might well be protracted, and that might well be true of many other countries. Given the desirability of the widest possible participation of States in the activities of the Commission, his delegation was prepared to advocate that all States participating in the Conference, whether or not they had signed the Final Act or the Convention, should be members of the Commission. He was sure that all delegations wanted to see the earliest possible ratification and entry into force of the Convention, the only differences being how

that goal was to be achieved. One possible compromise, which had already been suggested, was to set a time-limit for signing the Convention. That would give Governments time to make up their minds without being excluded from the work of the Preparatory Commission.

Mr. NAGOTA (India) said that when discussing the Preparatory Commission it was essential to remember what its purpose was. If it was assumed that the Preparatory Commission was to prepare the way for the establishment and proper functioning of the International Sea-Bed Authority and its organs, there should be no reservations about the need for its establishment, and the decision to establish it could be in the form of a resolution adopted by the Conference at the time of the adoption of the Convention. Participation in the Preparatory Commission should be open to those States which had indicated their intention to abide by the Convention, either by signing it or by taking other steps, such as ratification or accession. Those signing the Convention would be entitled to participate in the work of the Commission, including its decision-making, while those which had signed only the Final Act would have observer status. Without that distinction, the Commission would be simply a continuation of the Conference in another form, a situation which might create difficulties in its technical and preparatory work. The Commission should start its work within a specified period after 50 States had signed the Convention.

The Preparatory Commission should cease to exist on the establishment of the Assembly and the Council, unless the Assembly decided otherwise and gave it other specific functions. There should be no difficulty about making arrangements for its staffing, housekeeping functions and financing; it might be possible for it to be funded from the United Nations budget rather than by a loan. That, however, was a minor matter as long as the work of the Preparatory Commission was not unduly prolonged and its functions remained restricted. Its rules of procedure and decision-making process should likewise create no problems. Such standard functions of a preparatory commission as preparing draft rules of procedure, agendas, budget estimates, financial regulations and staff regulations should not prove difficult to agree upon.

(Mr. Nagota, India)

Careful consideration would, however, have to be given to whether the Preparatory Commission should draft rules, regulations and procedures for the exploitation of the sea-bed and, if so, what their status should be. He felt that the Preparatory Commission should not encroach upon the functions of the Legal and Technical Commission by drafting a comprehensive code, which would necessarily be a time-consuming activity. In other words, the Preparatory Commission should produce recommendatory or draft rules for formal adoption by the proper organs of the Authority; they should not be self-executory, even on a provisional basis. Accordingly, paragraph 4 of article 308 of the Convention would have to be modified.

The United States proposal about giving the Preparatory Commission powers of advance site designation pending the establishment of the Enterprise had several aspects which had not been taken into account in paragraph 8 of the draft resolution (A/CONF.62/L.55, annex II); the issue was to have been discussed at the current session. If the United States delegation wished to discuss this subject further, it should say so and elaborate on its earlier proposal. The Group of 77 might be induced to review its stand and state its position on the proposal in order to complete its recommendations on the Preparatory Commission. A decision on the question of whether the Preparatory Commission was to have a role in advance site designation might also influence the decision on whether the Commission should have an executive organ and, if so, what its decision-making procedures should be. Otherwise that question could be dealt with in the context of the Commission's rules of procedure.

In paragraph 4 (f) of the late President's report (A/CONF.62/L.55), reference was made to the possibility of amending paragraph 4 (d) of the draft resolution to include a reference to the financing of the Enterprise. In his delegation's view, the powers of the Preparatory Commission in respect of the Enterprise should be comprehensive and not restricted to financing. They should include the preparation of wide-ranging studies and recommendations regarding the establishment of the Enterprise and should be specifically provided for in the draft resolution, at least in general terms. Any specific aspects which required further consideration by the Committee might be discussed in the Working Group of 21 or in any other manner deemed appropriate.

Mr. NOVAKOVIĆ (Yugoslavia) said that his delegation held that membership of the Preparatory Commission should be limited to countries which had signed the Convention. That would impose greater responsibility on the members of the Commission since any later signatories would be bound by the rules which it had established. The Preparatory Commission should, however, grant observer status to other countries, and their participation would help them to decide whether they wished to sign the Convention. The Commission should be restricted to preparatory work and should not attempt to supplant the Authority itself, so that while it might make recommendations on rules, regulations and procedures, it should have no authority to implement them, even provisionally. His delegation supported the position of the Group of 77 on that subject.

Mr. CALINGAERT (United States of America) said that his delegation would co-operate fully in implementing the programme of work approved by the plenary. If further progress were to be made, a frank exchange of views was necessary, which could best be accomplished in informal consultations.

Mr. PASHKEVICH (Byelorussian Soviet Socialist Republic) said that the Preparatory Commission should adopt recommendations by consensus, and provisions to that effect should be included in the draft resolution (A/CONF.62/L.55, annex II). The Conference worked on the basis of consensus, and the Preparatory Commission should do nothing to jeopardize the agreement on substantive issues reached by the Conference. The purpose of the Commission would be to accelerate the practical work of the Authority, and that could more easily be achieved if it adopted recommendations by consensus. Moreover, the composition of the Commission would not, at least initially, be the same as that of the Conference, and working by consensus would ensure that the interests of all countries were taken into consideration. Finally, the Commission's role was technical, and it should not replace the Authority itself.

Mr. PINTO (Portugal) said that his delegation supported the general content of the draft resolution contained in document A/CONF.62/L.55, annex II.

The functions of the Preparatory Commission should extend to all organs established by the Convention, and not just to the International Sea-Bed Authority. Due account should be taken of the equality of States in determining the composition of the Commission.

Mr. DE SOTO (Peru) said that he disagreed with the observation, made at the previous meeting by the representative of the United Kingdom, that the question of investments made before the Convention came into force was closely linked with the question of the Preparatory Commission.

Mr. LUPINACCI (Uruguay) said that his delegation shared the views expressed by the Group of 77.

The proposals contained in document A/CONF.62/L.55, annex II provided a sound basis for consideration of the manner in which the Preparatory Commission should be established; it was particularly important that it should be established by means of a resolution of the Conference, since any other procedure would create difficulties. His delegation agreed that the Commission should not become a body resembling the Authority. It could, however, perform useful functions with respect to the arrangements for convening the Law of the Sea Tribunal.

With regard to the composition of the Commission, his delegation held that members should be required to demonstrate their interest by having signed or otherwise accepted the Convention. Signatories and non-signatories could hardly be treated on the same footing. In order to uphold the principle of universality, however, States which had signed the Final Act should be allowed to participate as observers.

He agreed that it would be preferable for the Commission to work on the basis of consensus. Other methods should be attempted only if consensus was impossible.

Mr. MEYS (Haiti) said that his delegation was convinced that only States which were parties to the Convention should be members of the Preparatory Commission. Signing the Final Act did not commit countries to the Convention, and countries not bound by the provisions of the Convention should be accorded, at most, observer status.

Mr. HAMOUD (Iraq) said that the draft resolution contained in document A/CONF.62/L.55, annex II, provided a sound basis for discussion.

Membership of the Preparatory Commission should be limited to those countries which had signed the Convention, provided that the Commission had a minimum of 50 members. Countries which had signed only the Final Act might be allowed to participate as observers.

(Mr. Hamoud, Iraq)

It was important for the Commission to confine itself to preparatory work and to making recommendations. The executive functions referred to in paragraph 4 of the draft resolution should be limited. Paragraphs 8 and 11 of the draft resolution created some difficulties for his delegation, as did the omission of any reference to the Enterprise.

Mr. JORIANO (Philippines) said that his delegation supported the position adopted by the Group of 77 on the Preparatory Commission. The Commission should be established by a resolution of the Conference, and its membership should be limited to those countries which had signed the Convention. That would encourage early ratification. Its decisions should be taken by consensus and should only have the force of recommendations.

Mr. SHARMA (Nepal) said that document A/CONF.62/L.55 offered a promising basis for discussion.

It was certainly necessary to establish the Preparatory Commission, which should be accomplished by means of a resolution of the Conference. However, there was no justification for limiting membership of the Commission to signatories of the Convention. Any country which had participated in the work of the First Committee would be in a position to discuss the technical issues which would arise in the Commission, and it would clearly be preferable for the Commission to have a broad membership. The presence of observers would be an anomaly.

Mr. EL-GHELLALI (Libyan Arab Jamahiriya) said that the stalemate engineered by a certain country should not be allowed to obstruct the work of the Conference. The international community should not submit to pressure from that country.

With regard to the Preparatory Commission, his delegation supported the position adopted by the Group of 77. It was important for the Commission to consider all the main organs to be established, including the Enterprise. That would ensure that the interest of the third world countries was maintained.

Mr. HAGE (Canada) asked whether the Chairman was yet in a position to inform the Committee exactly how the study prepared by the Secretariat as to the effects of the production limitation formula was to be used.

The CHAIRMAN replied that he was actively engaged in consultations on that and all other outstanding issues before the Committee.

Summing up the discussion on the Preparatory Commission, he said that the Committee agreed that establishment of the Preparatory Commission was desirable, that document A/CONF.62/L.55 should provide the basis for negotiations, and that unresolved issues should be pursued in informal consultations.

The meeting rose at 1.20 p.m.